

Commissioner for Patents  
Reply to Office Action of (November 2, 2006)  
Page 3

Serial No. 10/815,826

### **REMARKS/ARGUMENTS**

Claims 1, 4 and 5 remain pending in the case.

In the action, the Examiner has indicated that claim 5 lacks clarity in view of no specific definition for the abbreviation PAC. This is known by those skilled in the art to be indicative of polyanionic cellulose. Applicant has included a reference to the latter in the claims. It is believed that this amendment overcomes the objection.

The issue concerning the presence of water has been clarified; Applicant has indicated that water is present.

In respect of the objection to the specification failing to teach the xanthan, starch and PAC, applicant respectfully disagrees. The xanthan is indicative in the specification in numerous places and is an example of the composition Kelzan XCD. Various other examples of the xanthan and starch can be found in the tables presented in the case as filed. Reconsideration is requested. Paragraph 39 provides an example of Starpak DP, a modified starch. Starflo R is also indicated; this is a sodium carboxymethyl cellulose.

Applicant submits that its website provides clear material safety data sheets delineating numerous examples.

### **REJECTIONS UNDER 35 U.S.C.102:**

The position the Examiner has taken is that each of U.S. Patent Numbers 3,830,735, 4,331,554 and 3,929,632 is anticipatory of previously presented claims 1 through 4. Applicant has taken this opportunity to amend claim 1 to be more specific in terms of the polymer. It is now stipulated in claim 1 that the polymer is a polysaccharide based polymer of which xanthan is an example. The solvent has been specified as an aliphatic hydrocarbon for removing tar and oil from the sand present in the formation. Finally, applicant has reworded the de-emulsification composition as an enzyme based emulsion breaker. The breaker effectively dissipates the emulsion and in this manner functions to demulsify. In the vernacular, the emulsion breaker breaks the emulsion into separate phases so that the oil can be removed from the water otherwise emulsified therewith. Support can be found on page 10 at paragraph 44 *et. seq.*

Commissioner for Patents  
Reply to Office Action of (November 2, 2006)  
Page 4

Serial No. 10/815,826

Support for the specificity in the solvent and polymer can be found throughout the text of the application as filed and in this manner, applicant believes that no new issues have been raised nor has any new subject matter been added; the subject matter of these amendments were inherent in the initially filed application.

In respect of the U.S. Patents cited by the Examiner, applicant's position is that none of the references is anticipatory of the newly presented claims. In respect of U.S. Patent No. 3,830,735, there is no combination of components present in any of the examples which would render anticipated or obvious the newly amended claims.

Similarly, in U.S. Patent No. 4,331,554, the references primarily directed to ammonium salts and there is no discussion of aliphatic hydrocarbon solvents employed as a solvent nor the teaching of a polysaccharide based polymer.

Further, in U.S. Patent No. 3,929,632, the Patentee is primarily concerned with demulsifying an oil in water emulsion. The demulsifying is achieved by making use of an ammonium bentaine composition.

In view of the fact that each one of the reference is deficient at least one of the elements in the newly presented claims, applicant submits that the claims are therefore inventive and not anticipated in this case.

Reconsideration of this application is respectfully requested.

Respectfully submitted,

By: 

Paul Sharpe  
Registration No. 39,493  
Attorney for Applicant  
Telephone: (613) 780-8676

PSS/dll

Address: 1981 McGill College Avenue  
Suite 100  
Montreal, Quebec  
Canada  
H3A 3C1